

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Omnipoint Communications, Inc. (T-Mobile)  
c/o Attorney Simon Brighenti, Jr.

**Date application filed with the Town Clerk:** October 12, 2006

**Nature of request:** A Special Permit to locate wireless communication antennas on an existing rooftop at the Merrill Center, Amherst College, under Sections 3.215 and 3.340.2 of the Zoning Bylaw

**Address:** 15 Mead Road, Amherst College (Map 14C, Parcel 67, ED Zoning District)

**Legal notice:** Published on October 25 and November 1, 2006 in the Daily Hampshire Gazette and sent to abutters on October 23, 2006

**Board members:** Tom Simpson, Ted Rising and Al Woodhull

**Submissions:** The petitioner submitted the following:

- A booklet prepared by Attorney Brighenti that contained 1) Supporting statements relating to the Zoning Bylaw, 2) Notice of Amherst College's consent to use the Merrill Center roof, 3) Project Narrative, 4) Radio Frequency Engineer's statement, the FCC license and other documents, and 5) The site plan and equipment drawings, received October 4, 2006;
- A set of 7 photographs showing the Merrill Center from different vantage points where the building is partially or completely visible, some with simulations of the antennae, some without;
- A National Environmental Policy Act Screening Report, dated May 10, 2006.
- A large set of building plans of the project, drawn by Coler & Colantonio, dated 7/14/06, submitted at the hearing.

The Planning Department zoning assistant submitted a memo dated November 3, 2006 which review the requirements of Section 3.340.2 of the Zoning Bylaw as it applies to this application.

**Site Visit:** October 8, 2006

Two of the Board members met with Dan Campbell, Amherst College Physical Plant Director, and viewed the roof of the Merrill Science Center building. The building is located on top of a hill and affords an almost 360 degree of the surrounding area. The roof is largely flat with a "penthouse" and an abandoned enclosure; the accessory computer cabinets are proposed to be located within this enclosure. Mr. Campbell pointed out the locations of the proposed antennae that would face in all directions.

**Public Hearing:** October 9, 2006

Attorney Simon Brighenti and Physical Plant Director Dan Campbell were present at the hearing.

Mr. Brighenti presented the case to the Board on behalf of Omnipoint Communications, and Mr. Campbell provided additional information concerning the site. They gave the following information:

- The T-Mobile engineer could not attend, but is available by phone if needed;
- The large set of plans submitted at the hearing contains additional information concerning the details of the proposed antennae than the earlier booklet submitted with the application;
- Also submitted at the hearing were photographs by Mike Hertel, T-Mobile engineer, from 7 different vantage points surrounding the Merrill Science Center, Amherst College. The locations of the photos were along South Pleasant Street west of the College, Mill Lane south of the College, the intersection of South East and Stanley Streets east of the College, Railroad Street north of the College, and various views on the College grounds and closer to the Merrill Center;
- The zoning staff assistant had accompanied Mr. Hertel when he took the photographs at the various locations on November 7, 2006 so that he could find the possible locations where the Merrill Center might be visible off campus. It was concluded that there are very few locations where the building can be seen off campus. Mill Lane is the main exception, which is over a mile away from the building.
- Some of the photographs contain simulations of the proposed antennae, others do not;
- T-Mobile is one of the four major telecommunication companies in New England, and they are beginning to develop more sites for their wireless service;
- The center of Amherst and Amherst College is currently underserved for T-Mobile;
- The College's physical plant smokestack has Verizon and Cingular wireless equipment mounted on it, but cannot support any more structures;
- The Merrill Center has the elevation (96 feet) needed for wireless communication antennas without being visually intrusive to the surrounding area and Town;
- Three sets of antennas are proposed – 2 sets on the roof, and one on the eastern side of the building;
- The pipe mounted panel antennas or "stealth" fiberglass pipes (a total of 4 pipes, 2 antennas within each pipe) are split into two sets, two stealth pipes on the south-west corner of the roof, and the other two on the north-west corner of the roof; they will protrude 8 feet above the roofline, or 104 feet above ground level;
- The three façade mounted panel antennas will be 6 feet long, painted and textured (silk screened) to match the building color and architecture;
- GPS antennas, 7" and 15" high, will be mounted to the interior of the abandoned screenwall where the computer cabinets will be installed. These antennas will be part of the Emergency 911 system – 60% of all 911 calls now come from cell phones;
- The project's base transmission station (BTS) cabinets and backup battery cabinet will be located within an abandoned screenwall on the roof and will not be visible to the public; the cabinets are both weather resistant and vandal resistant;
- The equipment is remotely monitored at Omnipoint's control center 24 hours a day, 7 days a week;
- Maintenance technicians will come once a month to check the equipment and perform routine maintenance; they will co-ordinate with the College for access to the roof;
- It is very rare to have maintenance problems with T-Mobile's facilities;
- The facility is a passive one; there will be no impact on traffic or college life by the communications equipment;
- Noise from the BTS cabinets is low, and will sound like an air conditioner;
- Radio frequency exposure levels generated by the facility will be lower than the FCC safety

standards, and the emissions will not be detectable away from the building;

- The facility will be able to handle multiple calls;
- There are other T-Mobile wireless facilities in the area – one in Belchertown, two in South Hadley, one at UMass, one on St. Brigid's Church's tower and one proposed for Hadley;
- The proposal was required to go through National Environmental Policy Act screening, and the report stated that there was no negative impact on either environmental or historical sites or buildings;
- No FAA lighting is needed – the antennas will be below the 200 foot level required for lights;

Mr. Simpson asked about the color and texture of the stealth pipes. Mr. Brighenti responded that they will be made of fiberglass, with a grey matt finish. They will look somewhat metallic in nature.

Mr. Woodhull asked if the Merrill rooftop can supply other wireless facilities. Mr. Campbell said that T-Mobile is leasing space from the College, and the College will house 3 of the 4 wireless companies available in this area. The fourth company is not interested in Amherst College, and the College has no plans to house another wireless facility on the roof of Merrill.

The Board inquired about access to the Merrill roof. Mr. Campbell said that the building has two stairwells, both with locked doors to the roof. To access the wireless equipment, T-Mobile will go to the campus police, and the police will escort the maintenance personnel to the building and remain with them during service calls. To ensure further safety, the computer equipment cabinets will be surrounded by fencing and locked.

Mr. Simpson asked about posting a bond for the removal of the wireless facility. The petitioner replied that they would do so with the Town. They have a multiple year contract with Amherst College for their facility, and assume that the facility will not be removed for many years.

Bonnie Weeks, Building Commissioner, asked about the strength of the roof to support the T-Mobile structures. Mr. Campbell said that yes, there will be structural reinforcement of the building roof/floor in order to support the equipment cabinets in particular.

Mr. Woodhull asked how many other areas in Amherst may need T-Mobile wireless communication antennas. Mr. Brighenti said that there are 2 or 3 other gaps in Amherst service in addition to the Amherst College area, and that they hope to address them in the future.

Mr. Rising made a motion to close the evidentiary portion of the hearing. Mr. Simpson seconded the motion, and the vote was unanimous to close the hearing.

#### **Public Meeting:**

The Board agreed that the Merrill building was a good location for a wireless communications facility. The antennas will be unobtrusive and provide a needed service for the central area of Town.

They further agreed (Mr. Simpson made the motion and Mr. Rising seconded it) that the Board could waive the two requirements of Bylaw Section 3.340.2 for wireless communication facilities that were not met. That is:

1. Photographs of 8 view lines of the facility from vantage points used by the public with

simulations of the proposed antennas. The petitioner could find only a few vantage points around the College and the nearby Town streets where the Merrill building is visible. Seven photographs were submitted, but only the one location (from Mill Lane) actually showed the building from a distance. Two photos taken on campus nearby to the Merrill building were submitted where simulated antennas projecting from the roof were visible. The antennas appear not to be visible elsewhere, so the requirement of 8 simulated photographs was waived by the Board.

2. Co-location is required by Section 3.340.2.3 if possible. Since the applicants are leasing rooftop space from Amherst College, and the College (which is not the applicant) has no plans to locate another facility at the Merrill Science Center, the condition is not germane to this application and was waived by the Board.

### **Findings:**

The Board finds under Section 3.340.2 of the Zoning Bylaw, Wireless Communications, that:

1. The proposed facility is located in an Educational Zone. Since the proposed antennas will be located on a building at Amherst College, the impact on the neighborhood will be minimal. The Bylaw requires a maximum of 125 feet for the facility; T-Mobile antennas will be 104 feet above ground level.
2. The design facilities include:
  - There will be no advertisements (3.340.2.2b);
  - The equipment building exterior will be hidden within the penthouse of the building (3.340.2.2c);
  - The antennas will be within a fiberglass pipe or in mounted panels designed to match the building façade (3.340.2.2d&e);
  - The telecommunications equipment will be located inside the penthouse (3.340.2.2f);
  - No satellite dishes will be used (3.340.2.2g);
  - The roof of Merrill building is inaccessible to the public (3.340.2.2h). Only the physical plant employees or the College police have access;
  - No lighting or special painting is needed (3.340.2.2i);
  - The submitted photo simulations and other photos show that proposed antennas will be unobtrusive to the surrounding area (3.340.2.2j);
  - Landscaping is not relevant to this proposal (3.340.2.2k).
3. The proposed facility will be located on an existing building that will be reinforced to the capability to support it. The co-location requirement was waived by the Board.
4. The petitioner has provided certification to operate from the FCC.
5. The petitioner agreed to maintain the facility and provide an inspection schedule.
- 6&7. The petitioner has supplied the Board and Building Commissioner with copies of all licenses and permits required, and shall remove all structures associated with this permit within one year of cessation of use.

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood and compatible with other uses since the district is educational and there already are two wireless services at Amherst College

10.382, 10.383 & 10.385 – The proposal will not constitute a nuisance to abutters or pedestrians due to pollution, noise or lights since the Merrill Center is large, well back from public roads, and surrounded by college buildings or a hillside. The homes in the neighborhood are not close by.

Noise and exterior lighting will be minimal.

10.384, 10.387 & 10.388 – Adequate and appropriate facilities will be provided, since the approved site plan indicates the location of the equipment building and antennas will be on a rooftop, This area is inaccessible to anyone but physical plant or police personnel.

10.386 & 10.387 – Parking is already provided by the college for the Merrill Center employees; the proposed wireless facility will need parking only for inspections or maintenance. Signage will be minimal – only that required by the FCC..

10.391 – The proposal protects, to the extent feasible, scenic features of the area in that the utilities will be underground, an existing building is used for the wireless facility, the antennas protrude only 8 feet above the building and the college woods and trails to the east of the building will remain undisturbed.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw in that it will promote the convenience and well-being of the T-Mobile cell phone users of the area.

### **Public Meeting – Zoning Board Decision**

Mr. Simpson made a motion to APPROVE the proposal, with conditions. Mr. Rising seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to approve a Special Permit under Sections 3.215 and 3.340.2 of the Zoning Bylaw to Omnipoint Communications, Inc. to locate wireless communication antennas on an existing rooftop at the Merrill Science Center, on the campus of Amherst College, located at 15 Mead Drive (Map 14C, Parcel 67, ED Zoning District), with conditions.

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THOMAS SIMPSON

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EDWARD RISING

\_\_\_\_\_  
ALBERT WOODHULL

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2006 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2006.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2006  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2006,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit under Sections 3.215 and 3.340.2 of the Zoning Bylaw to Omnipoint Communications, Inc. to locate wireless communication antennas on an existing rooftop at the Merrill Science Center, on the campus Amherst College, located at 15 Mead Drive (Map 14C, Parcel 67, ED Zoning District subject to the following conditions:

1. The new structure and antennas shall be constructed according to the plans submitted by the applicant and approved by the Board at the public meeting November 9, 2006 and on file at the zoning office, Planning Department.
2. The site shall be managed as described in the Management Plan approved by the Board at the public meeting November 9, 2006.
3. Inspections shall be made by an Omnipoint technician monthly for the first 6 months, then intermittent thereafter. Any change in the conditions or operation of the facility that might affect the health and safety of the residents of the Town of Amherst shall be reported to the Building Commissioner as soon as is practicable, and not less than two (2) working days following the inception or discovery of the change.
4. Access to the roof of the Merrill Science Center shall be secured at all times and limited to authorized personnel only.
5. No signs shall be erected except for signs required under applicable state and federal laws, and emergency/warning signs.
6. Omnipoint, Inc. will be held responsible for compliance with all statements made in the submitted booklet which was approved by the Board at the November 9, 2006 public meeting.
7. The "stealth" pipe antennas shall have a matte finish and non-reflective texture.
8. The façade mounted panel antenna shall be painted and textured to match the exterior of the building.
9. Any exterior lighting shall be downcast.
10. All structures associated with the wireless communications shall be removed within one (1) year of cessation of said use. Prior to issuance of a building permit for the wireless communications use, the petitioner shall post and submit a bond or other financial surety acceptable to the Town in an amount sufficient to cover the cost of demolishing and/or removing the structures in the event the Building Commissioner condemns the applicant's structures or deems it to have been abandoned or vacant for more than one year. Said amount shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. In the event the posted amount does not cover the cost of demolition and/or removal, the Town may place a lien upon the property covering the difference in cost.

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THOMAS SIMPSON, Chair  
Amherst Zoning Board of Appeals

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DATE